

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

DANIEL RAY LICON,

Petitioner,

v.

STATE OF OREGON
DEPARTMENT OF CORRECTIONS
ARRON FELTON AND PAROLE BOARD
LINCOLN COUNTY,

Respondents.

No. CV 10-255-SU

OPINION AND ORDER

MOSMAN, J.,

On November 12, 2009, Magistrate Judge Sullivan issued a Findings and Recommendation ("F&R") (#8) in the above-captioned case recommending that Mr. Licon's Petition for Writ of Habeas Corpus be denied without prejudice; that the proceedings should be dismissed for failure to prosecute and failure to comply with a court order; and that petitioner's Motion for Summary Judgment (#7) should be denied as moot. Mr. Licon filed objections (#10).

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or

recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any of the magistrate judge's F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Sullivan's recommendation, and I ADOPT the F&R (#8) as my own opinion and this action is DISMISSED without prejudice.

IT IS SO ORDERED.

DATED this 20th day of October, 2010.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Court